

## **CONTRACT FOR FALSE ALARM BILLING AND TRACKING SERVICES**

### **THIS CONTRACT FOR FALSE ALARM TRACKING AND BILLING SERVICES**

("Contract") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the **City of Durham, North Carolina**, ("CITY") and **Public Safety Corporation** ("CONTRACTOR"), a corporation of the State of Maryland with its principal offices located in Waldorf, Maryland.

#### **WITNESSETH:**

**Whereas**, the CITY Council enacted an Ordinance (Article IV – Police and Fire Alarm Systems, Sections 46-118 through 46-148) related to alarm systems and false alarms, as amended through the date, cited above, this Contract was entered into ("Alarm Ordinance"); and

**Whereas**, the goal of the CITY is to encourage more responsible use of alarm systems and to reduce the number of false alarms to which public safety officers must respond by accurately tracking false alarm instances and assessing fees and penalties as required by the Alarm Ordinance; and

**Whereas**, in its implementation of the Alarm Ordinance, The CITY is authorized to engage a third-party CONTRACTOR to provide, without limitation, management of false alarms so that persons and organizations that use alarm systems can be held accountable for false alarms through a system of fees and penalties; and

**Whereas**, the CONTRACTOR created and markets the proprietary and patented (U.S. Patent No. 6,856,246) software system called CryWolf® ("Software"), an integrated suite of software applications operating in a Windows-based environment, designed to assist false alarm reduction managers and planners in government agencies and industry in accessing information relevant to false alarms, and which has been developed at CONTRACTOR's private expense for the commercial marketplace and is not in the public domain; and

**Whereas**, the CONTRACTOR has offered to implement and assist in the management of the CITY's false alarm tracking and billing services using its proprietary commercial off-the-shelf false alarm Software; and

**Whereas**, The CITY has accepted the CONTRACTOR's offer and desires to engage the CONTRACTOR to perform the alarm management services ("Services") described in Attachment A; and

**Whereas**, the CONTRACTOR desires to accept such engagement.

**Now, Therefore**, the parties agree as follows:

#### **1. Term.**

The term of this Contract shall commence upon the date it is signed by both parties (the "Effective Date") and unless terminated, as herein provided, shall exist and continue for an initial term of three (3) years.

The CITY shall have the right at its option to extend the Contract for additional periods of one (1) year each upon the same terms and conditions. The option shall be deemed exercised in each successive year upon written notice by the CITY to the CONTRACTOR. The notice shall not be later than ninety (90) days prior to the expiration of the then effective remaining term.

## **2 . Contract Documents and Order of Precedence.**

The contract documents consist of the following Attachments which are incorporated into the Contract by this reference:

A. **Attachment A**, describes the Scope of Services to be provided by the CONTRACTOR and the City's operational responsibilities; and, **Attachment B**, Payment Terms.

B. The Order of Precedence shall be as follows: (1) this Contract; (2) Attachment B; and, (3) Attachment A.

## **3 . Alarm Management Scope of Services.**

A. The CONTRACTOR shall provide the Services in accordance with the **Scope of Services** described in **Attachment A**.

B. The Services shall assist the CITY in managing its Alarm Ordinance to include, without limitation, permitting of alarm systems, tracking of responsible persons (including individuals, businesses and government agencies) who use alarm systems, issuance and notification of false alarm fees in accordance with the Alarm Ordinance, and at the direction and under the supervision of the CITY's Alarm Administrator, maintenance of a database of alarm systems; alarm companies; persons who use alarm systems; false alarm occurrences; fees, fines and penalties billed and collected; the collection and enforcement of penalties for violations; generating performance and outcome reports; and assuring the availability to the CITY of false alarm information, all as more specifically described in **Attachment A - Scope of Services**.

## **4 . Software license.**

The CITY shall be licensed and authorized to use the Software and any additional specific customization and development provided as part of the Services, all in accordance with **Attachment A**. The license shall cover all the Software, including, without limitation, software interfaces and software modifications. The scope of the license is non-transferable and non-exclusive and is authorized by CONTRACTOR for use by the CITY to access its false alarm information.

## **5 . Duration of the Software License.**

The CITY shall have the right to use the Software in accordance with **Attachment A** for so long as the CONTRACTOR provides Services to the CITY or in accordance with the Termination provisions in this Contract. This license shall apply for the duration of the Contract and any extensions provided for herein or agreed to in writing by the parties. In the event the business relationship with CONTRACTOR is terminated or ended for any reason, the CITY<sup>2</sup>

license rights to use the Software shall likewise terminate except as provided for in this Contract, including **Attachment B**.

#### **6 . Modification of the Software.**

A. Modifications or adaptations of the Software shall be limited to creating interfaces between the Software and the CITY's computer systems required to import or export data in order to implement the Software. Software "customization" includes, without limitation, adaptations necessary to meet the requirements established by the CITY for reasonable program, technical, and/or legislative changes.

B. The CITY shall retain a nonexclusive License to use the modified and/or "customized" interfaces with the Software, *provided, however*, the use of the original Software with such adaptations in any projects other than the management of the Alarm Ordinance for the CITY shall be subject to additional compensation to CONTRACTOR in an amount and subject to terms to be determined by the parties in writing prior to any such additional use.

#### **7 . Protecting Confidential Information.**

The parties shall provide reasonable safeguards to protect their respective software, hardware systems and data from unauthorized intrusion by third parties.

Names, addresses, type of alarm, identification information of any alarm monitoring company, or identification information of any person cited under the Alarm Ordinance shall not be released, exhibited or sold to a third party by CONTRACTOR.

All data received hereunder shall be made a part of The CITY's permanent records and files and preserved therein for a period in accordance with the requirements of North Carolina law. The CITY will inform CONTRACTOR of the required retention time in writing at the beginning of the Contract term and, in the event these requirements change, as soon as those changes are approved by the appropriate North Carolina State agency..

#### **8 . Reproduction and Copyright.**

A. The Software is protected under the Copyright and Patent laws of the United States, and as extended by treaty, with Canada. The CITY may not copy, or allow anyone else to copy or otherwise reproduce, any part of the Software without the prior written consent of CONTRACTOR, except to store and/or install a copy of the Software on a storage device, such as a network server, used only to run the Software on other computers over an internal network and except for two copies for back-up or archive purposes.

B. The CITY may copy the licensed Software as necessary to its hard disks or other such storage medium to efficiently operate the Software on the CITY's single-user system, multiple-user system, or network. The Software shall be copied as a whole, and the use of the copies shall be governed by this Contract. All other copying is prohibited.

#### **9 . Limitations on the Use of the Software.**

The CITY may not reverse engineer, decompile, or disassemble the Software. The Software is licensed as a single product. Its component parts may not be separated.

10. **Notices of Intellectual Property Rights.**

The CITY shall assure that CONTRACTOR's notices of intellectual property (e.g., patent, trademark, and copyright notices) provided by CONTRACTOR, if any, shall remain visible on the Software when displayed electronically, or when output created by it, other than normal production correspondence and reports, is printed and displayed for non-production purposes.

11. **Payment.**

The CITY shall pay the CONTRACTOR for the Services described, in accordance with **Attachment B** ("Payment Terms"). The CITY is a North Carolina public entity and all financial obligations extending beyond the current fiscal year are subject to funds being budgeted and appropriated therefore.

12. **Collection of Fines.**

The CITY shall support the Contractor's reasonable efforts to collect false alarm fees, fines and penalties in accordance with the Alarm Ordinance and at the direction of the Alarm Administrator. If The CITY directs CONTRACTOR to engage a third-party collection organization for delinquent amounts, the CITY shall cause the necessary legislative and administrative procedures to be enacted and/or adopted in order to delegate to the CONTRACTOR the authority to collect the delinquent fees on behalf of the CITY.

13. **Confidentiality of The CITY False Alarm Data.**

Any false alarm collection data provided to the CONTRACTOR during the performance of the Services shall be used only in a manner consistent with this Contract, and no false alarm collection data shall be disclosed without the prior written consent of the CITY. If such disclosure is compelled or required in any judicial or administrative proceeding, the CONTRACTOR shall, before disclosing such information, first notify the CITY and give the CITY an opportunity to object to the disclosure.

In the event the CITY objects to such disclosure, it shall notify the CONTRACTOR that it will indemnify it for any costs and expense incurred, including, without limitation, the cost of attorney fees expended in the defense of any action or proceeding, or relating to the refusal to disclose such information.

14. **The CITY Responsibilities.**

A. The CITY shall cooperate with and assist the CONTRACTOR by providing management decisions affecting implementation of the Services within five (5) business days of receipt of CONTRACTOR's request for a decision, as well as providing personnel, information, approvals, and acceptances in accordance with a mutually-agreed Implementation Plan to be developed by CONTRACTOR and the CITY at the start of the Services. This Implementation Plan will define the detailed tasks and schedule necessary to achieve the following target program milestones:

- 1) Commence program Services implementation activities on or about the Effective Date;

- 2) Begin collecting and processing alarm location information within thirty (30) days of the Effective Date; and
- 3) Begin processing false alarm activations within sixty (60) days of the Effective Date.

The Implementation Plan shall be agreed to in writing by both parties and upon execution by both parties shall be incorporated into this Contract by reference.

B. The CITY shall provide the CONTRACTOR with CAD Records, any appeal records and other alarm incident information in accordance with the terms of a mutually-agreed implementation plan and in a mutually-agreed electronic format, as necessary and proper, to allow the CONTRACTOR to effectively provide the Services needed to enforce the Alarm Ordinance.

15. **The CITY Alarm Administrator.**

To facilitate effective communication between the CITY and the CONTRACTOR, and in accordance with the Alarm Ordinance, the CITY shall designate an Alarm Administrator. The Alarm Administrator shall have the power and authority to make decisions relating to the Services. A secondary (back up) Alarm Administrator will also be designated to act on behalf of the Alarm Administrator when the primary Alarm Administrator is unavailable.

16. **Resolution of Disputes.**

A. *Mediation.* In the event of a dispute between the parties concerning any matter arising under this Contract, the parties shall proceed to good-faith mediation of the dispute. The mediation venue shall be Durham, North Carolina. The cost of mediation shall be shared equally by the parties.

17. **Termination.**

A. *By the CITY.* The CITY may terminate this Contract for any reason and at any time by giving at least sixty (60) days written notice to the CONTRACTOR of such termination and specifying the effective date thereof. If the Contract is terminated by the CITY, the CONTRACTOR shall be paid for any services already performed. The CONTRACTOR shall be liable to the CITY for any damages sustained by the CITY by virtue of any breach of the Contract by the CONTRACTOR.

B. *Termination Within First Two Years.* If this Contract is terminated by the CITY or its implementation is ended by the City during the first two years, for any reason other than breach by the CONTRACTOR, the CONTRACTOR shall be entitled to receive its initial startup costs as specified in **Attachment B**, in addition to any Services fees owed the CONTRACTOR as described in Paragraph 18 – Rights upon Termination.

C. *By the CONTRACTOR for Cause.* If the CITY substantially changes the Alarm Ordinance by reducing or eliminating the system of false alarm, permit and/or penalty fees collected through its administrative process, the CONTRACTOR shall provide thirty (30) days prior written notice that false alarm fee collections have not been made in accordance with this Contract. If enforcement procedures and/or collection obligations are not changed to the reasonable satisfaction of the CONTRACTOR, the CONTRACTOR may terminate this Contract after a further thirty (30) day written notice to the CITY.

**18. Rights upon Termination.**

A. If the CONTRACTOR is entitled to terminate this Contract, the CONTRACTOR shall offer the CITY an option, which must be exercised within thirty (30) calendar days after the Notice of Termination, to purchase a conditional, uninterrupted, non-exclusive and non-transferable license to use the proprietary Software as necessary to support and administer the CITY's Alarm Ordinance conditional on the payment of initial and annual license and services fees at the CONTRACTOR's then prevailing rates. Payment of the fees shall be within thirty (30) calendar days of the expiration of each prior paid year.

B. If the CITY terminates this Contract or if the CONTRACTOR terminates for cause, the CITY, in addition to payment of false alarm collections owed to the CONTRACTOR through the date of termination, shall undertake good faith efforts to collect any fees and civil penalties for Ordinance violations billed, but not yet collected, as part of the Services through the date of termination, in order to pay the CONTRACTOR, amounts due the CONTRACTOR as a result of efforts engaged in by the CONTRACTOR on the CITY's behalf.

**19. Indemnification.**

A. The CONTRACTOR shall indemnify, hold harmless, and defend the CITY, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys fees, arising out of or resulting, directly or indirectly, from the CONTRACTOR's (or CONTRACTOR's subcontractors, if any) performance or breach of the Contract provided that such claim, damage, loss, or expense is not caused by the negligent act or omission or willful misconduct of the CITY or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification provision shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.

B. In the event that a claim is made against the CONTRACTOR, which arises out of the negligence or willful misconduct of the CITY or any of the CITY's employees, the CITY shall indemnify the CONTRACTOR to the extent the CITY is liable under the law.

C. Any party seeking indemnification shall promptly notify the other party of its discovery of any matter giving rise to a claim of indemnity. For each individual claim, the indemnifying party shall have no obligation to the other or to any third party with respect to any expenses incurred by or on behalf of the other or its assumption of control of the defense of the claim, or with respect to any compromise or settlement made, without the prior written consent of both parties.

**20. Patent infringement.**

The CONTRACTOR shall indemnify the CITY, its elected and appointed officials, officers, employees, agents, and successors in interest from and against all damages and expenses resulting from any infringement action brought against the CONTRACTOR, or against The CITY to the extent that any such action is predicated on the use of CONTRACTOR's Software, during the term of this Contract. This Hold Harmless and Indemnification provision shall in no way be limited by any financial responsibility or insurance and shall survive termination of this contract.

**21. Limitation of Liability.**

In no event shall either Party be liable to the other for consequential, special, or incidental damages arising out of or relating to performance and nonperformance. This limitation shall apply regardless of the form of action, whether in contract or in tort, including negligence or misrepresentation.

22. **Insurance.**

The CONTRACTOR shall provide and maintain in full force and effect at no additional cost to the CITY for the duration of the Contract commercial general liability insurance or comprehensive general liability insurance with a minimum limit of \$1,000,000 per occurrence for bodily injury and damage to property including contractual liability, premises/operations, products/completed operations, independent CONTRACTORS, broad form property damage, and personal injury coverage and a minimum aggregate amount of \$1,000,000 or commercial/comprehensive general liability insurance plus additional excess umbrella liability insurance to meet these limits.

The CONTRACTOR agrees that it shall add the CITY, its elected and appointed officials, officers, employees, agents, and successors in interest to the CONTRACTOR's liability insurance policies as additional insureds. The CONTRACTOR shall require its insurance carrier or agent to certify that this requirement has been satisfied on all Insurance Certificates issued under this Contract.

Before any work is initiated and before any invoices are paid for work performed under this Contract, the CONTRACTOR shall provide written proof of compliance with the above insurance requirements by delivering to:

City of Durham  
Department of Finance  
General Billing & Collections Division  
101 City Hall Plaza  
Durham, NC 27701  
Attention: \_\_\_\_\_

a copy of a certificate or certificates of insurance completed by its insurance carrier or agent certifying that minimum insurance coverages as required above are in effect and that the coverage will not be canceled or changed until thirty (30) days after written notice is given to the CITY. The CONTRACTOR shall maintain, update, and renew the Certificate(s) for the term of this Contract.

23. **Assignment.**

This Contract shall not be assigned to any third party without prior written consent, which may be withheld in the sole and absolute discretion of either party. For purposes of this Contract, Assignment does not include the purchase of all or substantially all of the stock or assets of the CONTRACTOR by another company.

24. **Attorney's Fees.**

Should the parties or either of them employ an attorney to enforce by litigation in a court of competent jurisdiction, any of the contract provisions because of a disputed matter arising under this Contract, to assert damages for the breach of the Contract, or in order to obtain injunctive

relief, then the prevailing party shall be entitled to recover reasonable attorney's fees, costs, charges, and any expenses expended or incurred.

25. **Notices.**

Wherever under this Contract one party is required or permitted to give notice to the other, such notice shall be deemed given when delivered in hand or when mailed, by United States mail, certified, return receipt requested, postage prepaid, and addressed as follows:

In the case of the CONTRACTOR:

Public Safety Corporation  
103 Paul Mellon Court  
Waldorf, Maryland 20602  
Attention: Contract Administration

In the case of The CITY:

City of Durham  
Department of Finance  
General Billing & Collections Division  
101 City Hall Plaza  
Durham, NC 27701  
Attention: \_\_\_\_\_

26. **Governing Law.**

The substantive laws of the State of North Carolina shall govern this Contract without regard to the law of conflicts. Venue shall be in the Superior Court of Durham County, North Carolina. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

27. **Severability.**

If any provision of this Contract is held invalid or otherwise unenforceable, the enforceability of the remaining provisions shall not be impaired.

28. **No Waiver.**

The failure by any party to exercise any right stated in this Contract shall not be deemed a waiver of the right.

29. **Complete Agreement.**

This Contract when signed by both parties sets forth the entire understanding of the parties as to its subject matter, conditions and obligations and may not be modified except by further written agreement.

30. **Independent Contractors.**



In performing the work under this Contract, the CONTRACTOR acts as an independent CONTRACTOR and is solely responsible for necessary and adequate worker's compensation insurance, personal injury and property damage insurance, as well as errors and omissions insurance. The CONTRACTOR, as an independent CONTRACTOR, is obligated to pay federal and state income tax on moneys earned. The personnel employed by the CONTRACTOR are not and shall not become employees, agents or servants of the CITY because of the performance of any work by this Contract.

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**WHEREAS**, the individuals representing the parties are both authorized and have executed this Contract effective as of on the date first written above.

**City of Durham, North Carolina**

By: \_\_\_\_\_  
\_\_\_\_\_

ATTEST BY:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

**Public Safety Corporation**

Attest: \_\_\_\_\_

By: \_\_\_\_\_  
[Authorized Signing Officer]  
\_\_\_\_\_  
[Name and Title – please print]

## **ATTACHMENT A**

### **Scope of Services**

#### **Purpose**

The purpose of this Scope of Services is to describe the duties and responsibilities of Public Safety Corporation ("CONTRACTOR"), and the City of Durham, North Carolina ("CITY").

#### **CONTRACTOR Responsibilities**

CONTRACTOR will be responsible for the daily operation of the Program. This will include, but may not be limited to:

1. Initially importing electronically into CONTRACTOR's alarm processing system (CryWolf®) database alarm system location, permit and responsible party data obtained from the CITY and/or alarm companies, as authorized by the CITY;
2. Updating alarm system location, permit and responsible party information in accordance with the Ordinance. Updated information may be processed by mail, electronically and / or online;
3. Importing daily into the CONTRACTOR alarm billing system, false alarm incident data (in formats prescribed by CONTRACTOR) extracted from the CITY's CAD/911 System;
4. Creating and hosting a dedicated, secure (SSL encrypted) City of Durham Alarm Program website for City citizens and businesses to obtain false alarm reduction educational information, review alarm ordinance and appeal requirements, access and update alarm account information, and pay alarm fees online if preferred;
5. Initializing, maintaining, securing and backing up Program databases including alarm system location, permit and incident data, alarm-related financial transactions and accounts receivable information. CONTRACTOR shall comply with the provisions of the Ordinance, and update Program business rules to comply with any Ordinance changes;
6. Processing applications for and issuing alarm system permits in accordance with the Ordinance.
6. Processing false alarm incident data, including the matching of false alarm incidents with the alarm system location database maintained by the CONTRACTOR;
7. Billing and corresponding with alarm users in accordance with the Alarm Ordinance provisions. This will include but may not be limited to notifications of permits, false alarms, invoices, and delinquent payment notices;
8. Providing CITY alarm users specific information on and/or online locations to view false alarm reduction and Ordinance requirements. Each alarm user will also receive warning notice of false alarm response(s) in accordance with the Ordinance beginning no later than on the occasion of a false alarm incident immediately preceding the first chargeable (billable) false alarm;

9. Answering telephone inquiries from the CITY alarm users that are placed to a dedicated false alarm program toll-free customer service number established for the CITY;
10. Processing fee / fine / penalty payments mailed to and deposited in an The CITY approved bank lockbox and account, and received from other payment channels, e.g. online, as agreed on by CONTRACTOR and the CITY, and applying these payments to alarm accounts;
11. Supporting alarm hearings and appeals by notifying the CITY of any such appeals, providing a City Alarm Program representative with documentation supporting noticing / billing decisions; and updating the system with the disposition of any hearing results;
12. Providing and maintaining computer equipment, software, mailing equipment and furniture at the Program processing facilities;
13. Providing the CITY secure (SSL encrypted), online, on-demand access to alarm program and alarm user account information and reports including, but not limited to, alarm account transaction history, alarm system information, and financial transactions/balances with format and content specified by the CryWolf® Alarm Management System and the designated Bank, and agreed on between the CITY and CONTRACTOR; and,
14. Performing special collection functions as authorized by the CITY such as retaining third party collection agency, providing delinquent account information to other City agencies and / or filing property liens.

CONTRACTOR is responsible for all costs of carrying out these responsibilities including, but not limited to, the costs of staff, facilities, equipment and consumable supplies. Only third-party bank and credit card fees, and third party collection costs (if any), e.g. collection agency fee, will be shared by the parties through payment from gross collections before revenue sharing.

#### **The CITY Responsibilities**

1. Appointing a CITY Alarm Administrator ("Administrator") who will be the primary point of contact between CONTRACTOR and the CITY. The Administrator is responsible for overseeing CONTRACTOR's operation of the False Alarm Management Services Program ("Program") and accessing Program information, as needed, via CONTRACTOR provided online access;
2. Requesting or supporting CONTRACTOR's requests of Alarm Companies, as needed, to provide alarm system information;
3. Making any and all decisions about alarm call response, determining whether calls are false alarms, providing any on-scene communication of alarm related information to alarm users, and for documenting alarm related information within the the CITY CAD/911 system;
4. Extracting false alarm incident data from the CAD/911 System and transferring this data electronically to CONTRACTOR (via CONTRACTOR FTP site). The CITY staff are also responsible for entering, or causing to be entered, into the CAD/911 System any false alarm related information that the CITY may choose to display to CAD/911 System operators through the CAD/911 System;

5. Scheduling, conducting and making appeal decisions for any false alarm hearings;
6. Conducting any general public education programs on false alarms; and;
7. Transferring any and all financial information from the Program generated alarm reports to other the CITY financial systems, as needed.

The CITY is responsible for all costs of carrying out these responsibilities, including, but not limited to the costs of staff, facilities, computer equipment and consumable supplies.

## ATTACHMENT B

### PAYMENT TERMS

#### 1. Revenue Sharing Percentage

For the provision of all services and technology outlined in this contract, CONTRACTOR shall obtain payment exclusively from the revenues CONTRACTOR helps generate. There shall be no upfront systems development, licensing, conversion, equipment, travel, support or other costs. CONTRACTOR shall purchase, configure, install, and customize all systems and processes CONTRACTOR requires to provide the False Alarm Management Services described herein. The Revenue Sharing schedule is as follows:

#### **CONTRACTOR's Percentage Share of Annual Collected Revenue**

	<u><b>Alarm Fees and Charges</b></u>
<b>0 - \$100,000</b>	<b>40%</b>
<b>\$100,001 – \$200,000</b>	<b>30%</b>
<b>\$200,001 -</b>	<b>20%</b>

The graduated percentages would be applied incrementally, e.g. \$400,000 in annual collections would yield the following PSC revenue share: 40% of \$100,000 + 30% of \$100,000 + 20% of \$200,000, or a total of \$110,000 for \$400,000 in collections (27.5% overall in this example).

The First Revenue Year shall begin when revenue collections begin. The only amounts that shall be paid from the total collected revenue and subtracted from the total collected revenue before the revenue sharing percentages are applied are:

1. Any overpayments received by the alarm program to be refunded to citizens or re-applied to future alarm charges, as directed in writing by the CITY;
2. Bank fees charged by the CITY-approved lockbox bank;
3. Special mailing costs, if any, in excess of U.S. Post Office first class rates; and,
4. Third-party credit card processing charges, if any.

The percentages are based on several assumptions over which the CONTRACTOR has little or no control:

- The Ordinance fee and fine schedules remain at levels equal to or greater than in Revenue Years 1 through 3;
- The CITY adopts a fair, but firm approach to granting appeals and
- The CITY actively supports enforcement of the Alarm Ordinance, including support of reasonable measures to collect all amounts due for violations of the Ordinance.

#### Payment Terms

The CITY and CONTRACTOR agree as follows:

- 1 . All false alarm related fee collections from any payment method, including but not limited to bank lockbox and online credit card, shall be deposited, as soon as practical, in a dedicated false alarm bank account ("False Alarm Account") to be established at a mutually agreeable Commercial Bank;
- 2 . The CITY and CONTRACTOR agree to maintain a positive balance of available funds ("Minimum Balance") at all times in the false alarm account;
- 3 . At the beginning of each month, CONTRACTOR will reconcile the alarm related deposits for the most recent completed month and report the same to the CITY. Upon The CITY's approval, the CITY and CONTRACTOR shall authorize and cause the issuance of electronic (ACH) transfers to the CITY and to CONTRACTOR as follows:
  - a . With regard to the transfer to CONTRACTOR, the amount will be calculated for CONTRACTOR based on the Revenue Share Table above. That amount, not to exceed 40% of the revenue (net of bank, credit card and collection fees, if any) collected during the preceding month, shall be transferred to a bank and account authorized by CONTRACTOR; and,
  - b . The remaining balance, not less than 60% of the revenue (net of bank, credit card and collection fees, if any) collected during the preceding month, shall be transferred to a bank and account authorized by the CITY.
- 4 . At the termination of this Contract, any remaining balance shall be transferred to CONTRACTOR and to the CITY on basis of the percentages in the Table above.
- 5 . The CITY is a North Carolina public entity and all financial obligations extending beyond the current fiscal year are subject to funds being budgeted and appropriated therefore.

#### Delinquent Account Terms

The parties shall define a mutually agreeable process and methods for collecting amounts due from delinquent accounts. If organizations other than the CITY and CONTRACTOR are retained to collect overdue amounts, the parties agree that the third party collection costs shall be borne by the parties on a pro-rata basis by directing the third party to retain its collection fees from its gross collections before remitting the balance to the alarm program for revenue sharing.

#### The CITY Payment Upon Early Termination (Per Paragraph 17B)

If, within the first two (2) years of the effective date, this Contract is terminated by The CITY for convenience under 17A, or is terminated by CONTRACTOR for cause as defined in Paragraph 17C, CONTRACTOR shall be due a one-time Program Termination fee, not to exceed \$36,000.00, to reimburse CONTRACTOR for startup costs. This fee shall be in addition to any other amounts due CONTRACTOR under the Contract. The \$36,000.00 shall be amortized (reduced) on a straight-line basis over the initial two year period at the rate of \$1,500 per month.